

E AND R AMENDMENTS TO LB 970

Introduced by Larson, 40, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. Section 77-2701, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
6 77-27,236 and section 5 of this act shall be known and may be cited
7 as the Nebraska Revenue Act of 1967.

8 Sec. 2. Section 77-2701.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2701.01 Pursuant to section 77-2715.01, for all
11 taxable years beginning or deemed to begin on or after January 1,
12 1990, and before January 1, 1991, under the Internal Revenue Code
13 of 1986, as amended, the rate of the income tax levied pursuant to
14 section 77-2715 shall be three and forty-three-hundredths percent.
15 Pursuant to section 77-2715.01, for all taxable years beginning or
16 deemed to begin on or after January 1, 1991, and before January 1,
17 2013, under the Internal Revenue Code of 1986, as amended, the rate
18 of the income tax levied pursuant to section 77-2715 shall be three
19 and seventy-hundredths percent. Pursuant to section 77-2715.01, for
20 all taxable years beginning or deemed to begin on or after January
21 1, 2013, under the Internal Revenue Code of 1986, as amended, the
22 rates of the income tax levied pursuant to section 77-2715 shall be
23 as provided in section 5 of this act.

1 Sec. 3. Section 77-2715.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2715.01 (1)(a) Commencing in 1987 the Legislature
4 shall set the ~~rate~~ rates for the income tax imposed by section
5 77-2715 and the rate of the sales tax imposed by subsection (1)
6 of section 77-2703. ~~The~~ For taxable years beginning or deemed to
7 begin before January 1, 2013, the rate of the income tax set by the
8 Legislature shall be considered the primary rate for establishing
9 the tax rate schedules used to compute the tax.

10 (b) The Legislature shall set the rates of the sales tax
11 and income tax so that the estimated funds available plus estimated
12 receipts from the sales, use, income, and franchise taxes will be
13 not less than three percent nor more than seven percent in excess
14 of the appropriations and express obligations for the biennium for
15 which the appropriations are made. The purpose of this subdivision
16 is to insure that there shall be maintained in the state treasury
17 an adequate General Fund balance, considering cash flow, to meet
18 the appropriations and express obligations of the state.

19 (c) For purposes of this section, express obligation
20 shall mean an obligation which has fiscal impact identifiable by a
21 sum certain or by an established percentage or other determinative
22 factor or factors.

23 (2) The Speaker of the Legislature and the chairpersons
24 of the Legislature's Executive Board, Revenue Committee, and
25 Appropriations Committee shall meet with the Tax Commissioner
26 within ten days after July 15 and November 15 of each year
27 and shall determine whether the rates for sales tax and income

1 tax should be changed. In making such determination they shall
2 recalculate the requirements pursuant to the formula set forth
3 in subsection (1) of this section, taking into consideration
4 the appropriations and express obligations for any session,
5 all miscellaneous claims, deficiency bills, and all emergency
6 appropriations.

7 In the event it is determined by a majority vote that
8 the rates must be changed as a result of a regular or special
9 session or as a result of a change in the Internal Revenue Code
10 of 1986 and amendments thereto, other provisions of the laws of
11 the United States relating to federal income taxes, and the rules
12 and regulations issued under such laws, they shall petition the
13 Governor to call a special session of the Legislature to make
14 whatever rate changes may be necessary.

15 Sec. 4. Section 77-2715.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2715.02 ~~(1)~~ Whenever the primary rate is changed by
18 the Legislature under section 77-2715.01, the Tax Commissioner
19 shall update the rate schedules required in subsection ~~(2)~~ of this
20 section to reflect the new primary rate and shall publish such
21 updated schedules.

22 ~~(2)~~ (1) The following rate schedules are hereby
23 established for the Nebraska individual income tax and shall be in
24 the following form:

25 (a) For taxable years beginning or deemed to begin before
26 January 1, 2007, income amounts for columns A and E shall be:

27 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

1 (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing
2 joint returns;

3 (iii) \$0, \$3,800, \$25,000, and \$35,000, for
4 head-of-household returns;

5 (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing
6 separate returns; and

7 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
8 trusts;

9 (b) For taxable years beginning or deemed to begin on or
10 after January 1, 2007, and before January 1, 2013, income amounts
11 for columns A and E shall be:

12 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

13 (ii) \$0, \$4,800, \$35,000, and \$54,000, for married filing
14 joint returns;

15 (iii) \$0, \$4,500, \$28,000, and \$40,000, for
16 head-of-household returns;

17 (iv) \$0, \$2,400, \$17,500, and \$27,000, for married filing
18 separate returns; and

19 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
20 trusts;

21 (c) The amount in column C shall be the total amount of
22 the tax imposed on income less than the amount in column A;

23 (d) The amount in column D shall be the rate on the
24 income in excess of the amount in column E;

25 (e) For taxable years beginning or deemed to begin
26 before January 1, 2003, under the Internal Revenue Code of 1986,
27 as amended, the primary rate set by the Legislature shall be

1 multiplied by the following factors to compute the tax rates for
2 column D. The factors for the brackets, from lowest to highest
3 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

4 (f) For taxable years beginning or deemed to begin on
5 or after January 1, 2003, and before January 1, 2013, under the
6 Internal Revenue Code of 1986, as amended, the primary rate set
7 by the Legislature shall be multiplied by the following factors to
8 compute the tax rates for column D. The factors for the brackets,
9 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and
10 1.848;

11 (g) The amounts for column C shall be rounded to the
12 nearest dollar, and the amounts in column D shall be rounded to
13 hundredths of one percent; and

14 (h) One rate schedule shall be established for each
15 federal filing status.

16 ~~(3)~~ (2) The tax rate schedules shall use the format set
17 forth in this subsection.

18	A	B	C	D	E
19	Taxable income	but not	pay	plus	of the
20	over	over			amount over

21 ~~(4)~~ (3) For taxable years beginning or deemed to
22 begin before January 1, 2013, the tax rate applied to other federal
23 taxes included in the computation of the Nebraska individual income
24 tax shall be eight times the primary rate.

25 ~~(5)~~ The Tax Commissioner shall prepare, from the rate
26 schedules, tax tables which can be used by a majority of the
27 taxpayers to determine their Nebraska tax liability. The design of

1 the tax tables shall be determined by the Tax Commissioner. The
2 size of the tax table brackets may change as the level of income
3 changes. The difference in tax between two tax table brackets shall
4 not exceed fifteen dollars. The Tax Commissioner may build the
5 personal exemption credit and standard deduction amounts into the
6 tax tables.

7 (6) The Tax Commissioner may require by rule and
8 regulation that all taxpayers shall use the tax tables if their
9 income is less than the maximum income included in the tax tables.

10 Sec. 5. (1) For taxable years beginning or deemed to
11 begin on or after January 1, 2013, and before January 1, 2014,
12 the following brackets and rates are hereby established for the
13 Nebraska individual income tax:

14 Individual Income Tax Brackets and Rates

15 <u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
16 <u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
		<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
18 <u>1</u>	<u>\$0-2,399</u>	<u>\$0-4,799</u>	<u>\$0-4,499</u>	<u>\$0-2,399</u>	<u>\$0-499</u>	<u>2.46%</u>
19 <u>2</u>	<u>\$2,400-</u>	<u>\$4,800-</u>	<u>\$4,500-</u>	<u>\$2,400-</u>	<u>\$500-</u>	
20	<u>17,499</u>	<u>34,999</u>	<u>27,999</u>	<u>17,499</u>	<u>4,699</u>	<u>3.51%</u>
21 <u>3</u>	<u>\$17,500-</u>	<u>\$35,000-</u>	<u>\$28,000-</u>	<u>\$17,500-</u>	<u>\$4,700-</u>	
22	<u>26,999</u>	<u>53,999</u>	<u>39,999</u>	<u>26,999</u>	<u>15,149</u>	<u>5.01%</u>
23 <u>4</u>	<u>\$27,000</u>	<u>\$54,000</u>	<u>\$40,000</u>	<u>\$27,000</u>	<u>\$15,150</u>	
24	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

25 (2) For taxable years beginning or deemed to begin on or
26 after January 1, 2014, the following brackets and rates are hereby
27 established for the Nebraska individual income tax:

1 Individual Income Tax Brackets and Rates

2	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
3	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
4			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
5	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.46%</u>
6	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
7		<u>17,999</u>	<u>35,999</u>	<u>28,799</u>	<u>17,999</u>	<u>4,699</u>	<u>3.51%</u>
8	<u>3</u>	<u>\$18,000-</u>	<u>\$36,000-</u>	<u>\$28,800-</u>	<u>\$18,000-</u>	<u>\$4,700-</u>	
9		<u>28,999</u>	<u>57,999</u>	<u>42,999</u>	<u>28,999</u>	<u>15,149</u>	<u>5.01%</u>
10	<u>4</u>	<u>\$29,000</u>	<u>\$58,000</u>	<u>\$43,000</u>	<u>\$29,000</u>	<u>\$15,150</u>	
11		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

12 (3) Whenever the tax brackets or tax rates are changed
13 by the Legislature, the Tax Commissioner shall update the tax rate
14 schedules to reflect the new tax brackets or tax rates and shall
15 publish such updated schedules.

16 (4) The Tax Commissioner shall prepare, from the rate
17 schedules, tax tables which can be used by a majority of the
18 taxpayers to determine their Nebraska tax liability. The design of
19 the tax tables shall be determined by the Tax Commissioner. The
20 size of the tax table brackets may change as the level of income
21 changes. The difference in tax between two tax table brackets shall
22 not exceed fifteen dollars. The Tax Commissioner may build the
23 personal exemption credit and standard deduction amounts into the
24 tax tables.

25 (5) For taxable years beginning or deemed to begin on or
26 after January 1, 2013, the tax rate applied to other federal taxes
27 included in the computation of the Nebraska individual income tax
28 shall be 29.6 percent.

1 (6) The Tax Commissioner may require by rule and
2 regulation that all taxpayers shall use the tax tables if their
3 income is less than the maximum income included in the tax tables.

4 Sec. 6. Section 77-2717, Revised Statutes Supplement,
5 2011, is amended to read:

6 77-2717 (1)(a) The tax imposed on all resident estates
7 and trusts shall be a percentage of the federal taxable income
8 of such estates and trusts as modified in section 77-2716, plus
9 a percentage of the federal alternative minimum tax and the
10 federal tax on premature or lump-sum distributions from qualified
11 retirement plans. The additional taxes shall be recomputed by (i)
12 substituting Nebraska taxable income for federal taxable income,
13 (ii) calculating what the federal alternative minimum tax would
14 be on Nebraska taxable income and adjusting such calculations for
15 any items which are reflected differently in the determination of
16 federal taxable income, and (iii) applying Nebraska rates to the
17 result. The federal credit for prior year minimum tax, after the
18 recomputations required by the Nebraska Revenue Act of 1967, and
19 the credits provided in the Nebraska Advantage Microenterprise Tax
20 Credit Act and the Nebraska Advantage Research and Development
21 Act shall be allowed as a reduction in the income tax due. A
22 refundable income tax credit shall be allowed for all resident
23 estates and trusts under the Angel Investment Tax Credit Act, the
24 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska
25 Advantage Research and Development Act.

26 (b) The tax imposed on all nonresident estates and trusts
27 shall be the portion of the tax imposed on resident estates and

1 trusts which is attributable to the income derived from sources
2 within this state. The tax which is attributable to income derived
3 from sources within this state shall be determined by multiplying
4 the liability to this state for a resident estate or trust with
5 the same total income by a fraction, the numerator of which is
6 the nonresident estate's or trust's Nebraska income as determined
7 by sections 77-2724 and 77-2725 and the denominator of which is
8 its total federal income after first adjusting each by the amounts
9 provided in section 77-2716. The federal credit for prior year
10 minimum tax, after the recomputations required by the Nebraska
11 Revenue Act of 1967, reduced by the percentage of the total income
12 which is attributable to income from sources outside this state,
13 and the credits provided in the Nebraska Advantage Microenterprise
14 Tax Credit Act and the Nebraska Advantage Research and Development
15 Act shall be allowed as a reduction in the income tax due. A
16 refundable income tax credit shall be allowed for all nonresident
17 estates and trusts under the Angel Investment Tax Credit Act, the
18 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska
19 Advantage Research and Development Act.

20 (2) In all instances wherein a fiduciary income tax
21 return is required under the provisions of the Internal Revenue
22 Code, a Nebraska fiduciary return shall be filed, except that a
23 fiduciary return shall not be required to be filed regarding a
24 simple trust if all of the trust's beneficiaries are residents of
25 the State of Nebraska, all of the trust's income is derived from
26 sources in this state, and the trust has no federal tax liability.
27 The fiduciary shall be responsible for making the return for the

1 estate or trust for which he or she acts, whether the income be
2 taxable to the estate or trust or to the beneficiaries thereof.
3 The fiduciary shall include in the return a statement of each
4 beneficiary's distributive share of net income when such income is
5 taxable to such beneficiaries.

6 (3) The beneficiaries of such estate or trust who are
7 residents of this state shall include in their income their
8 proportionate share of such estate's or trust's federal income and
9 shall reduce their Nebraska tax liability by their proportionate
10 share of the credits as provided in the Angel Investment Tax Credit
11 Act, the Nebraska Advantage Microenterprise Tax Credit Act, and
12 the Nebraska Advantage Research and Development Act. There shall be
13 allowed to a beneficiary a refundable income tax credit under the
14 Beginning Farmer Tax Credit Act for all taxable years beginning or
15 deemed to begin on or after January 1, 2001, under the Internal
16 Revenue Code of 1986, as amended.

17 (4) If any beneficiary of such estate or trust is a
18 nonresident during any part of the estate's or trust's taxable
19 year, he or she shall file a Nebraska income tax return which shall
20 include (a) in Nebraska adjusted gross income that portion of the
21 estate's or trust's Nebraska income, as determined under sections
22 77-2724 and 77-2725, allocable to his or her interest in the
23 estate or trust and (b) a reduction of the Nebraska tax liability
24 by his or her proportionate share of the credits as provided
25 in the Angel Investment Tax Credit Act, the Nebraska Advantage
26 Microenterprise Tax Credit Act, and the Nebraska Advantage Research
27 and Development Act and shall execute and forward to the fiduciary,

1 on or before the original due date of the Nebraska fiduciary
2 return, an agreement which states that he or she will file a
3 Nebraska income tax return and pay income tax on all income derived
4 from or connected with sources in this state, and such agreement
5 shall be attached to the Nebraska fiduciary return for such taxable
6 year.

7 (5) In the absence of the nonresident beneficiary's
8 executed agreement being attached to the Nebraska fiduciary return,
9 the estate or trust shall remit a portion of such beneficiary's
10 income which was derived from or attributable to Nebraska sources
11 with its Nebraska return for the taxable year. The For taxable
12 years beginning or deemed to begin before January 1, 2013, the
13 amount of remittance, in such instance, shall be the highest
14 individual income tax rate determined under section 77-2715.02
15 multiplied by the nonresident beneficiary's share of the estate
16 or trust income which was derived from or attributable to sources
17 within this state. For taxable years beginning or deemed to
18 begin on or after January 1, 2013, the amount of remittance,
19 in such instance, shall be the highest individual income tax
20 rate determined under section 5 of this act multiplied by the
21 nonresident beneficiary's share of the estate or trust income which
22 was derived from or attributable to sources within this state. The
23 amount remitted shall be allowed as a credit against the Nebraska
24 income tax liability of the beneficiary.

25 (6) The Tax Commissioner may allow a nonresident
26 beneficiary to not file a Nebraska income tax return if the
27 nonresident beneficiary's only source of Nebraska income was his or

1 her share of the estate's or trust's income which was derived from
2 or attributable to sources within this state, the nonresident did
3 not file an agreement to file a Nebraska income tax return, and
4 the estate or trust has remitted the amount required by subsection
5 (5) of this section on behalf of such nonresident beneficiary. The
6 amount remitted shall be retained in satisfaction of the Nebraska
7 income tax liability of the nonresident beneficiary.

8 (7) For purposes of this section, unless the context
9 otherwise requires, simple trust shall mean any trust instrument
10 which (a) requires that all income shall be distributed currently
11 to the beneficiaries, (b) does not allow amounts to be paid,
12 permanently set aside, or used in the tax year for charitable
13 purposes, and (c) does not distribute amounts allocated in the
14 corpus of the trust. Any trust which does not qualify as a simple
15 trust shall be deemed a complex trust.

16 (8) For purposes of this section, any beneficiary of an
17 estate or trust that is a grantor trust of a nonresident shall be
18 disregarded and this section shall apply as though the nonresident
19 grantor was the beneficiary.

20 Sec. 7. Section 77-2727, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2727 (1) A partnership as such shall not be subject
23 to the income tax imposed by the Nebraska Revenue Act of 1967.
24 Persons or their authorized representatives carrying on business
25 as partners shall be liable for the income tax imposed by the
26 Nebraska Revenue Act of 1967 only in their separate or individual
27 capacities.

1 (2) The partners of such partnership who are residents
2 of this state or corporations shall include in their incomes their
3 proportionate share of such partnership's income.

4 (3) If any partner of such partnership is a nonresident
5 individual during any part of the partnership's reporting year, he
6 or she shall file a Nebraska income tax return which shall include
7 in Nebraska adjusted gross income that portion of the partnership's
8 Nebraska income, as determined under the provisions of sections
9 77-2728 and 77-2729, allocable to his or her interest in the
10 partnership and shall execute and forward to the partnership, on or
11 before the original due date of the Nebraska partnership return,
12 an agreement which states that he or she will file a Nebraska
13 income tax return and pay income tax on all income derived from
14 or attributable to sources in this state, and such agreement shall
15 be attached to the partnership's Nebraska return for such reporting
16 year.

17 (4)(a) Except as provided in subdivision (c) of this
18 subsection, in the absence of the nonresident individual partner's
19 executed agreement being attached to the Nebraska partnership
20 return, the partnership shall remit a portion of such partner's
21 income which was derived from or attributable to Nebraska sources
22 with its Nebraska return for the reporting year. ~~The~~ For tax years
23 beginning or deemed to begin before January 1, 2013, the amount
24 of remittance, in such instance, shall be the highest individual
25 income tax rate determined under section 77-2715.02 multiplied
26 by the nonresident individual partner's share of the partnership
27 income which was derived from or attributable to sources within

1 this state. For tax years beginning or deemed to begin on or
2 after January 1, 2013, the amount of remittance, in such instance,
3 shall be the highest individual income tax rate determined under
4 section 5 of this act multiplied by the nonresident individual
5 partner's share of the partnership income which was derived from or
6 attributable to sources within this state.

7 (b) Any amount remitted on behalf of any partner shall be
8 allowed as a credit against the Nebraska income tax liability of
9 the partner.

10 (c) Subdivision (a) of this subsection does not apply to
11 a publicly traded partnership as defined by section 7704(b) of the
12 Internal Revenue Code of 1986, as amended, that is treated as a
13 partnership for the purposes of the code and that has agreed to
14 file an annual information return with the Department of Revenue
15 reporting the name, address, taxpayer identification number, and
16 other information requested by the department of each unit holder
17 with an income in the state in excess of five hundred dollars.

18 (5) The Tax Commissioner may allow a nonresident
19 individual partner to not file a Nebraska income tax return if the
20 nonresident individual partner's only source of Nebraska income was
21 his or her share of the partnership's income which was derived from
22 or attributable to sources within this state, the nonresident did
23 not file an agreement to file a Nebraska income tax return, and the
24 partnership has remitted the amount required by subsection (4) of
25 this section on behalf of such nonresident individual partner. The
26 amount remitted shall be retained in satisfaction of the Nebraska
27 income tax liability of the nonresident individual partner.

1 (6) For purposes of this section, any partner that is
2 a grantor trust of a nonresident shall be disregarded and this
3 section shall apply as though the nonresident grantor was the
4 partner.

5 Sec. 8. Section 77-2734.01, Revised Statutes Cumulative
6 Supplement, 2010, is amended to read:

7 77-2734.01 (1) Residents of Nebraska who are shareholders
8 of a small business corporation having an election in effect under
9 subchapter S of the Internal Revenue Code or who are members
10 of a limited liability company organized pursuant to the Limited
11 Liability Company Act or the Nebraska Uniform Limited Liability
12 Company Act shall include in their Nebraska taxable income, to
13 the extent includable in federal gross income, their proportionate
14 share of such corporation's or limited liability company's federal
15 income adjusted pursuant to this section. Income or loss from such
16 corporation or limited liability company conducting a business,
17 trade, profession, or occupation shall be included in the Nebraska
18 taxable income of a shareholder or member who is a resident of this
19 state to the extent of such shareholder's or member's proportionate
20 share of the net income or loss from the conduct of such business,
21 trade, profession, or occupation within this state, determined
22 under subsection (2) of this section. A resident of Nebraska
23 shall include in Nebraska taxable income fair compensation for
24 services rendered to such corporation or limited liability company.
25 Compensation actually paid shall be presumed to be fair unless
26 it is apparent to the Tax Commissioner that such compensation is
27 materially different from fair value for the services rendered or

1 has been manipulated for tax avoidance purposes.

2 (2) The income of any small business corporation having
3 an election in effect under subchapter S of the Internal Revenue
4 Code or limited liability company organized pursuant to the Limited
5 Liability Company Act or the Nebraska Uniform Limited Liability
6 Company Act that is derived from or connected with Nebraska sources
7 shall be determined in the following manner:

8 (a) If the small business corporation is a member of a
9 unitary group, the small business corporation shall be deemed to
10 be doing business within this state if any part of its income
11 is derived from transactions with other members of the unitary
12 group doing business within this state, and such corporation
13 shall apportion its income by using the apportionment factor
14 determined for the entire unitary group, including the small
15 business corporation, under sections 77-2734.05 to 77-2734.15;

16 (b) If the small business corporation or limited
17 liability company is not a member of a unitary group and is subject
18 to tax in another state, it shall apportion its income under
19 sections 77-2734.05 to 77-2734.15; and

20 (c) If the small business corporation or limited
21 liability company is not subject to tax in another state, all of
22 its income is derived from or connected with Nebraska sources.

23 (3) Nonresidents of Nebraska who are shareholders of
24 such corporations or members of such limited liability companies
25 shall file a Nebraska income tax return and shall include in
26 Nebraska adjusted gross income their proportionate share of the
27 corporation's or limited liability company's Nebraska income as

1 determined under subsection (2) of this section.

2 (4) The nonresident shareholder or member shall execute
3 and forward to the corporation or limited liability company before
4 the filing of the corporation's or limited liability company's
5 return an agreement which states he or she will file a Nebraska
6 income tax return and pay the tax on the income derived from or
7 connected with sources in this state, and such agreement shall
8 be attached to the corporation's or limited liability company's
9 Nebraska return for such taxable year.

10 (5) ~~In~~ For taxable years beginning or deemed to begin
11 before January 1, 2013, in the absence of the nonresident
12 shareholder's or member's executed agreement being attached to
13 the Nebraska return, the corporation or limited liability company
14 shall remit with the return an amount equal to the highest
15 individual income tax rate determined under section 77-2715.02
16 multiplied by the nonresident shareholder's or member's share of
17 the corporation's or limited liability company's income which was
18 derived from or attributable to this state. For taxable years
19 beginning or deemed to begin on or after January 1, 2013, in
20 the absence of the nonresident shareholder's or member's executed
21 agreement being attached to the Nebraska return, the corporation
22 or limited liability company shall remit with the return an amount
23 equal to the highest individual income tax rate determined under
24 section 5 of this act multiplied by the nonresident shareholder's
25 or member's share of the corporation's or limited liability
26 company's income which was derived from or attributable to this
27 state. The amount remitted shall be allowed as a credit against the

1 Nebraska income tax liability of the shareholder or member.

2 (6) The Tax Commissioner may allow a nonresident
3 individual shareholder or member to not file a Nebraska income
4 tax return if the nonresident individual shareholder's or member's
5 only source of Nebraska income was his or her share of the small
6 business corporation's or limited liability company's income which
7 was derived from or attributable to sources within this state, the
8 nonresident did not file an agreement to file a Nebraska income
9 tax return, and the small business corporation or limited liability
10 company has remitted the amount required by subsection (5) of this
11 section on behalf of such nonresident individual shareholder or
12 member. The amount remitted shall be retained in satisfaction of
13 the Nebraska income tax liability of the nonresident individual
14 shareholder or member.

15 (7) A small business corporation or limited liability
16 company return shall be filed only if one or more of the
17 shareholders of the corporation or members of the limited liability
18 company are not residents of the State of Nebraska or if such
19 corporation or limited liability company has income derived from
20 sources outside this state.

21 (8) For purposes of this section, any shareholder or
22 member of the corporation or limited liability company that is
23 a grantor trust of a nonresident shall be disregarded and this
24 section shall apply as though the nonresident grantor was the
25 shareholder or member.

26 Sec. 9. Section 77-2734.02, Reissue Revised Statutes of
27 Nebraska, is amended to read:

1 77-2734.02 (1) Except as provided in subsection (2) of
2 this section, a tax is hereby imposed ~~for each taxable year~~ on the
3 taxable income of every corporate taxpayer that is doing business
4 in this state:

5 (a) For taxable years beginning or deemed to begin
6 before January 1, 2013, at a rate equal to one hundred fifty and
7 eight-tenths percent of the primary rate imposed on individuals
8 under section 77-2701.01 on the first one hundred thousand dollars
9 of taxable income and at the rate of two hundred eleven percent of
10 such rate on all taxable income in excess of one hundred thousand
11 dollars. The resultant rates shall be rounded to the nearest one
12 hundredth of one percent; and-

13 (b) For taxable years beginning or deemed to begin on
14 or after January 1, 2013, at a rate equal to 5.58 percent on the
15 first one hundred thousand dollars of taxable income and at the
16 rate of 7.81 percent on all taxable income in excess of one hundred
17 thousand dollars.

18 For corporate taxpayers with a fiscal year that does not
19 coincide with the calendar year, the individual rate used for this
20 subsection shall be the rate in effect on the first day, or the day
21 deemed to be the first day, of the taxable year.

22 (2) An insurance company shall be subject to taxation
23 at the lesser of the rate described in subsection (1) of this
24 section or the rate of tax imposed by the state or country in which
25 the insurance company is domiciled if the insurance company can
26 establish to the satisfaction of the Tax Commissioner that it is
27 domiciled in a state or country other than Nebraska that imposes

1 on Nebraska domiciled insurance companies a retaliatory tax against
2 the tax described in subsection (1) of this section.

3 (3) For a corporate taxpayer that is subject to tax in
4 another state, its taxable income shall be the portion of the
5 taxpayer's federal taxable income, as adjusted, that is determined
6 to be connected with the taxpayer's operations in this state
7 pursuant to sections 77-2734.05 to 77-2734.15.

8 (4) Each corporate taxpayer shall file only one income
9 tax return for each taxable year.

10 Sec. 10. Original sections 77-2701, 77-2701.01,
11 77-2715.01, 77-2715.02, 77-2727, and 77-2734.02, Reissue Revised
12 Statutes of Nebraska, section 77-2734.01, Revised Statutes
13 Cumulative Supplement, 2010, and section 77-2717, Revised Statutes
14 Supplement, 2011, are repealed.

15 2. On page 1, line 2, strike "77-2001,"; and in line 6
16 strike "to terminate the inheritance tax;".